

SENATE, No. 2805

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MAY 7, 2009

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

Co-Sponsored by:

Senators Allen and Van Drew

SYNOPSIS

Enacts the "Jessica Lunsford Act;" increases sentences for sex offenders and persons who harbor them.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/24/2009)

1 AN ACT concerning certain sex offenders and amending
2 N.J.S.2C:14-2 and N.J.S.2C:29-3.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. (New section) This act shall be known and may be cited as
8 the "Jessica Lunsford Act."

9
10 2. N.J.S.2C:14-2 is amended to read as follows:

11 2C:14-2. Sexual assault. a. An actor is guilty of aggravated
12 sexual assault if he commits an act of sexual penetration with
13 another person under any one of the following circumstances:

14 (1) The victim is less than 13 years old;

15 (2) The victim is at least 13 but less than 16 years old; and

16 (a) The actor is related to the victim by blood or affinity to the
17 third degree, or

18 (b) The actor has supervisory or disciplinary power over the
19 victim by virtue of the actor's legal, professional, or occupational
20 status, or

21 (c) The actor is a resource family parent, a guardian, or stands
22 in loco parentis within the household;

23 (3) The act is committed during the commission, or attempted
24 commission, whether alone or with one or more other persons, of
25 robbery, kidnapping, homicide, aggravated assault on another,
26 burglary, arson or criminal escape;

27 (4) The actor is armed with a weapon or any object fashioned in
28 such a manner as to lead the victim to reasonably believe it to be a
29 weapon and threatens by word or gesture to use the weapon or
30 object;

31 (5) The actor is aided or abetted by one or more other persons
32 and the actor uses physical force or coercion;

33 (6) The actor uses physical force or coercion and severe
34 personal injury is sustained by the victim;

35 (7) The victim is one whom the actor knew or should have
36 known was physically helpless, mentally defective or mentally
37 incapacitated.

38 Aggravated sexual assault is a crime of the first degree.

39 Notwithstanding the provisions of any other law, a person
40 convicted under paragraph (1) or (2) of this subsection shall be
41 sentenced to a specific term of years which shall be fixed by the
42 court and shall be between 25 years and life imprisonment of which
43 the person must serve 25 years before being eligible for parole. A
44 person convicted under paragraph (3), (4), (5), (6) or (7) where the
45 victim was less than 18 years old shall be sentenced to a specific

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 term of years which shall be fixed by the court and shall be between
2 25 years and life imprisonment of which the person must serve 25
3 years before being eligible for parole.

4 b. An actor is guilty of sexual assault if he commits an act of
5 sexual contact with a victim who is less than 13 years old and the
6 actor is at least four years older than the victim.

7 c. An actor is guilty of sexual assault if he commits an act of
8 sexual penetration with another person under any one of the
9 following circumstances:

10 (1) The actor uses physical force or coercion, but the victim does
11 not sustain severe personal injury;

12 (2) The victim is on probation or parole, or is detained in a
13 hospital, prison or other institution and the actor has supervisory or
14 disciplinary power over the victim by virtue of the actor's legal,
15 professional or occupational status;

16 (3) The victim is at least 16 but less than 18 years old and:

17 (a) The actor is related to the victim by blood or affinity to the
18 third degree; or

19 (b) The actor has supervisory or disciplinary power of any nature
20 or in any capacity over the victim; or

21 (c) The actor is a resource family parent, a guardian, or stands in
22 loco parentis within the household;

23 (4) The victim is at least 13 but less than 16 years old and the
24 actor is at least four years older than the victim.

25 Sexual assault is a crime of the second degree.

26 If the victim of an offense committed pursuant to paragraph (1)
27 or paragraph (2) of this subsection is less than 18 years old, sexual
28 assault is a crime of the first degree and a person convicted of such
29 offense shall be sentenced to a specific term of years which shall be
30 fixed by the court and shall be between 25 years and life
31 imprisonment of which the person must serve 25 years before being
32 eligible for parole.

33 (cf: P.L.2004, c.130, s.13)

34
35 3. N.J.S.2C:29-3 is amended to read as follows:

36 2C:29-3. Hindering Apprehension or Prosecution. a. A person
37 commits an offense if, with purpose to hinder the detention,
38 apprehension, investigation, prosecution, conviction or punishment
39 of another for an offense or violation of Title 39 of the Revised
40 Statutes or a violation of chapter 33A of Title 17 of the Revised
41 Statutes he:

42 (1) Harbors or conceals the other;

43 (2) Provides or aids in providing a weapon, money,
44 transportation, disguise or other means of avoiding discovery or
45 apprehension or effecting escape;

46 (3) Suppresses, by way of concealment or destruction, any
47 evidence of the crime, or tampers with a witness, informant,
48 document or other source of information, regardless of its

1 admissibility in evidence, which might aid in the discovery or
2 apprehension of such person or in the lodging of a charge against
3 him;

4 (4) Warns the other of impending discovery or apprehension,
5 except that this paragraph does not apply to a warning given in
6 connection with an effort to bring another into compliance with
7 law;

8 (5) Prevents or obstructs, by means of force, intimidation or
9 deception, anyone from performing an act which might aid in the
10 discovery or apprehension of such person or in the lodging of a
11 charge against him;

12 (6) Aids such person to protect or expeditiously profit from an
13 advantage derived from such crime; or

14 (7) Gives false information to a law enforcement officer or a
15 civil State investigator assigned to the Office of the Insurance Fraud
16 Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-
17 16).

18 (a) An offense under paragraph (5) of subsection a. of this
19 section is a crime of the second degree, unless the actor is a spouse,
20 domestic partner, partner in a civil union, parent or child to the
21 person aided who is the victim of the offense, in which case the
22 offense is a crime of the fourth degree. Otherwise, the offense is a
23 crime of the third degree if the conduct which the actor knows has
24 been charged or is liable to be charged against the person aided
25 would constitute a crime of the second degree or greater, unless the
26 actor is a spouse, domestic partner, partner in a civil union, parent
27 or child of the person aided, in which case the offense is a crime of
28 the fourth degree. The offense is a crime of the fourth degree if
29 such conduct would constitute a crime of the third degree.
30 Otherwise it is a disorderly persons offense.

31 (b) Notwithstanding the provisions of subparagraph (a) of this
32 paragraph, any actor who harbors or conceals a person who is
33 subject to the registration requirements of section 2 of P.L.1994,
34 c.133 (C.2C:7-2) and who the actor has reason to believe is not
35 complying or has not complied with the provisions of section 2 of
36 P.L.1994, c.133 shall be sentenced to a minimum term of
37 imprisonment without eligibility for parole. If the offense is a crime
38 of the third degree then the period of parole ineligibility shall be
39 three years; if the offense is a crime of the fourth degree then the
40 period of parole ineligibility shall be one year.

41 b. A person commits an offense if, with purpose to hinder his
42 own detention, apprehension, investigation, prosecution, conviction
43 or punishment for an offense or violation of Title 39 of the Revised
44 Statutes or a violation of chapter 33A of Title 17 of the Revised
45 Statutes, he:

46 (1) Suppresses, by way of concealment or destruction, any
47 evidence of the crime or tampers with a document or other source of
48 information, regardless of its admissibility in evidence, which might

1 aid in his discovery or apprehension or in the lodging of a charge
2 against him; or

3 (2) Prevents or obstructs by means of force or intimidation
4 anyone from performing an act which might aid in his discovery or
5 apprehension or in the lodging of a charge against him; or

6 (3) Prevents or obstructs by means of force, intimidation or
7 deception any witness or informant from providing testimony or
8 information, regardless of its admissibility, which might aid in his
9 discovery or apprehension or in the lodging of a charge against him;
10 or

11 (4) Gives false information to a law enforcement officer or a
12 civil State investigator assigned to the Office of the Insurance Fraud
13 Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-
14 16).

15 An offense under paragraph (3) of subsection b. of this section is
16 a crime of the second degree. Otherwise, the offense is a crime of
17 the third degree if the conduct which the actor knows has been
18 charged or is liable to be charged against him would constitute a
19 crime of the second degree or greater. The offense is a crime of the
20 fourth degree if such conduct would constitute a crime of the third
21 degree. Otherwise it is a disorderly persons offense.

22 (cf: P.L.2008, c.81, s.2)

23

24 4. This act shall take effect on the first day of the sixth month
25 after enactment.

26

27

28

STATEMENT

29

30 This bill, known as the "Jessica Lunsford Act," imposes a
31 mandatory term of imprisonment for certain sex offenses and for
32 those persons who harbor or conceal certain sex offenders.

33 The bill amends N.J.S.A.2C:14-2 to provide for a mandatory
34 term of imprisonment for certain sex offenders. Under this section,
35 a person convicted of aggravated sexual assault of a minor under
36 the age of 18 or the new crime of first degree sexual assault of a
37 minor under the age of 18 would be sentenced to a specific term of
38 years fixed by the court which would be between 25 years and life
39 imprisonment, of which the person must serve 25 years before
40 being eligible for parole.

41 Aggravated Sexual Assault. Under current law, a person is guilty
42 of aggravated sexual assault if he commits an act of sexual
43 penetration with a victim under any one of the following
44 circumstances: (1) the victim is under the age of 13; (2) the victim
45 is at least 13 but less than 16 and the actor is related to the victim,
46 has supervisory power over the victim, or is a resource family
47 (foster) parent, guardian, or stands in loco parentis within the
48 household; (3) the act is committed during the commission or the

1 attempted commission of certain crimes, such as kidnapping or
2 robbery; (4) the actor is armed with a weapon; (5) the actor is aided
3 or abetted by another person and uses physical force or coercion;
4 (6) the actor uses physical force or coercion and the victim sustains
5 severe personal injury; and (7) the victim is one whom the actor
6 knew or should have known is physically helpless, mentally
7 defected or mentally incapacitated. Aggravated sexual assault is a
8 crime of the first degree punishable by a term of imprisonment of
9 10 to 20 years, a fine of up to \$200,000, or both. Under the bill, all
10 of these criminal acts would be punishable by a mandatory term of
11 imprisonment of 25 years to life, if the victim was under the age of
12 18.

13 Sexual Assault. A person is guilty of the crime of sexual assault
14 under current law if the actor commits an act of sexual contact with
15 a victim who is at least 13 and the actor is at least four years older;
16 or the actor commits an act of sexual penetration under one of
17 following circumstances: (1) the actor uses physical force or
18 coercion but the victim does not sustain severe personal injury; (2)
19 the victim is on probation or parole, detained in a hospital or prison
20 or other institution and the actor has supervisory power over the
21 victim by virtue of the actor's legal, professional or occupational
22 status; (3) the victim is at least 16 but less than 18 years of age and
23 the actor is related to the victim, has supervisory power over the
24 victim or is a resource family parent, a guardian, or stands in loco
25 parentis within the household; or (4) the victim is at least 13 but
26 less than 16 years of age and the actor is at least four years older.
27 Sexual assault is a crime of the second degree punishable by a term
28 of imprisonment of 5 to 10 years, a fine of up to \$150,000, or both.

29 The bill would create the new crime of first degree sexual assault
30 where the victim is less than 18 years of age and an offense is
31 committed under either of the two following circumstances: (1) the
32 actor uses physical force but the victim does not sustain severe
33 personal injury; or (2) the victim is on probation or parole, detained
34 in a hospital or prison or other institution and the actor has
35 supervisory power over the victim by virtue of the actor's legal,
36 professional or occupational status. Under the bill, a person
37 convicted of the crime of first degree sexual assault would be
38 sentenced to a specific term of years which shall be fixed between
39 25 years to life of which the person must serve 25 years before
40 being eligible for parole.

41 In addition, the bill amends N.J.S.2C:29-3, which prohibits
42 hindering apprehension or prosecution. The bill provides for the
43 mandatory term of imprisonment of three years without eligibility
44 for parole if an actor harbored or concealed a person who is subject
45 to the registration requirements of Megan's Law and who the actor
46 has reason to believe is not complying or has not complied with the
47 Megan's Law registration provisions.

1 This bill is named for Jessica Lunsford, the Florida child who
2 was sexually assaulted and murdered by a sex offender.